

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SUZANNE CAREY,

Plaintiff,

v.

PIERCE COUNTY SUPERIOR COURT  
DOMESTIC VIOLENCE UNIT, et. al.,

Defendants.

CASE NO. C10-5592BHS

ORDER GRANTING  
DEFENDANTS' MOTION TO  
DISMISS

This matter comes before the Court on Defendants' motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) (Dkt. 21). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby grants Defendants' motion to dismiss Plaintiff's ("Carey") case.

**I. PROCEDURAL HISTORY & FACTUAL BACKGROUND**

This matter arises out of Carey's challenge against actions taken by Defendants that, Carey alleges, violated her 42 U.S.C. § 1983 civil rights.

On December 9, 2010, Defendants moved to dismiss Carey's claims pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. Dkt. 21. Carey did not initially respond to Defendants' motion to dismiss. *See* Dkt. 28. The Court ordered Carey to show cause why this case should not be dismissed, and informed Carey of what would be required within her response and any affidavits attached thereto in order for her

1 to avoid dismissal. *See id.* (setting out the rules regarding defending against motions to  
2 dismiss under Rule 12(b)(6) or 12(b)(1)).

3 On January 21, 2011, Carey filed her response to the Court's show cause order.  
4 Dkt. 29. Carey attached an affidavit thereto. *Id.*, Attachment 1 ("Carey Affidavit). On  
5 January 28, 2011, Defendants replied to Carey's response. Dkt. 30.

## 6 II. DISCUSSION

### 7 A. Defendants' Motion to Strike

8 Within their reply, Defendants move the Court to strike certain statements from  
9 Carey's response. *See* Dkt. 30 at 3-4 (setting out statements sought to be stricken). The  
10 Court grants this motion because the statements that Defendants move to strike are  
11 irrelevant, unsupported, and/or are not authenticated. *See* Dkt. 29; *see also* Carey  
12 Affidavit.  
13

### 14 B. Defendants' Motion to Dismiss, Rule 12(b)(6)

15 Defendants move the Court to dismiss Carey's case for failure to state a claim for  
16 which relief can be granted under Rule 12(b)(6). Dkt. 21. The Court previously informed  
17 Carey that, to defeat such a motion to dismiss, "a plaintiff must set out specific facts in  
18 declarations, or authenticated documents, or an amended complaint that contradicts the  
19 facts shown in a defendant's documents and shows that there are facts that, if believed,  
20 would support a cognizable legal theory." Dkt. 28 at 3. The Court also cautioned Carey  
21 that failure to adequately respond to Defendants' motion to dismiss would likely result in  
22 dismissal of her case. *Id.*

23 Carey's response fails to set out facts that, if believed, would state a claim for  
24 which relief could be granted. Carey's response to the Court's show cause order contains  
25 mostly unsupported irrelevant statements that are largely unintelligible. *See* Dkt. 29. The  
26 statements in Carey's briefing that are potentially relevant are insufficient to defeat  
27 Defendants' motion and/or have not been adequately supported by affidavit or otherwise.  
28

1 Therefore, the Court grants Defendants' motion to dismiss under Fed. R. Civ. P.  
2 12(b)(6).

3 **C. Defendants' Motion to Dismiss, Rule 12(b)(1)**

4 Because the Court grants Defendants' motion to dismiss under Rule 12(b)(6), it  
5 declines to reach Defendants' further argument seeking dismissal under Rule 12(b)(1).  
6 *See* Dkt. 21 at 16-17.

7 **D. Defendants' Request to Limit Further Pleadings From Carey**

8 At this time, the Court denies Defendants' request for the Court to enter an order  
9 limiting Carey from submitting future filings to this Court.

10 **III. ORDER**

11 Therefore, it is hereby **ORDERED** that Defendants' motion to strike is  
12 **GRANTED** and Defendants' motion to dismiss this case is **GRANTED** as discussed  
13 herein.

14 DATED this 17th day of February, 2011.

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18 BENJAMIN H. SETTLE  
19 United States District Judge  
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